

## **CHAPTER 18.38**

### **Vested Property Rights**

#### **18.38.010 Intent.**

The intent of this Chapter is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., as amended, and to effectuate local control over creation of vested property rights to the fullest extent permitted under the Evans Home Rule Charter. (Ord. 1170-99, 1999)

#### **18.38.020 Definitions.**

A. *Site specific development plan* shall mean a map, plat or site plan that has been submitted to the City by a landowner or such landowner's legal representative describing the reasonable certainty, type and intensity of use for a specific parcel or parcels of property. Such plan may be in the form of the following: final site plan, final subdivision plat, minor subdivision plat, planned unit development plan, conditional or special use plan or as otherwise agreed by the City Council and the owner for a specific project or development phase which occurs prior to building permit application for those developments for which the landowner wishes the creation of vested rights, and has submitted an application and receives approval by the City Council. The City shall conduct a public hearing at the request of the landowner, which hearing follows the successful approval of the development at all other required stages of the development review process. Failure of the landowner to request such hearing renders the approval not a *site specific development plan*, and no vested rights shall be deemed to have been created. A *site specific development plan* shall not include a variance, sketch plan, or preliminary plan.

B. *Vested property right* shall mean the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan. A property right which becomes vested upon second reading of an ordinance shall remain vested for a period of three (3) years. This vesting period shall not be extended by any amendments to a site specific development plan unless expressly authorized by the City Council. (Ord. 1170-99, 1999)

#### **18.38.030 Notice and hearing.**

A. No site specific development plan shall be approved until after a public hearing, preceded by written notice of such hearing which is published in a newspaper of general circulation at least ten (10) days prior to such hearing. Such notice may, at the City's option, be combined with the notice required for final plan approval, or any other required notice. At such hearing interested persons shall have an opportunity to be heard.

B. The City Council may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare. The conditional approval shall result in a vested property right, although failure to abide by such terms and conditions will result in a forfeiture of vested property rights. (Ord. 1170-99, 1999)

#### **18.38.040 Development agreements.**

The City Council may enter into development agreements with landowners providing property rights shall be vested for a period exceeding three (3) years where warranted in light of all relevant circumstances, including but not limited to the size and phasing of the development, economic cycles, and market conditions. (Ord. 1170-99, 1999)

#### **18.38.050 Notice of approval.**

Each map, plat, or other document constituting a site specific development plan shall contain the following language: "Approval of this plan may create a vested property right pursuant to Article 68 of Title 24 C.R.S., as amended." Failure to contain this statement shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved, the specific parcel or parcels (legal description) of property affected and stating that a vested property right has been created shall be published once, not more than fourteen (14) days after approval of the site specific development plan as approved by City Council on second reading of the ordinance, in a newspaper of general circulation. (Ord. 1170-99, 1999)

#### **18.38.060 Approval – effective date – amendments.**

A site specific development plan shall be deemed approved when the City Council approves the vested rights ordinance upon second reading, as applicable, relating thereto, subject to the right of appeal and judicial review. In the event amendments to a site specific development are proposed and approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless the City Council specifically finds to the contrary and incorporates such finding in its approval of the amendment. (Ord. 1170-99, 1999)

#### **18.38.070 Payment of costs.**

In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site specific development plan shall pay all costs occasioned to the City as result of the site specific development plan review, including but not limited to publication of notices, public hearing and review costs, which costs are hereby established by City Council by resolution. (Ord. 1170-99, 1999)

#### **18.38.080 Other provisions unaffected.**

Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions of this Code pertaining to the development and use of property. The establishment of a vested property right shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the City, including but not limited to building, fire, plumbing, electrical and mechanical codes. (Ord. 1170-99, 1999)

#### **18.38.090 Limitations.**

Nothing in this Chapter is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S., as amended. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this Chapter shall be deemed to be repealed, and the provisions hereof no longer effective. (Ord. 1170-99, 1999)